

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
SPRINGFIELD TERMINAL RAILWAY	)	
COMPANY,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. 04-12705-RGS
	)	
UNITED STATES SURFACE	)	
TRANSPORTATION BOARD and THE	)	
UNITED STATES OF AMERICA	)	
	)	
Respondents.	)	
_____	)	

**ANSWER**

Respondents, United States of America and the Surface Transportation Board (the Board) (collectively, "the Government Defendants"), by and through their attorneys, hereby answer the Petition for Review as follows:

1. This paragraph of the Petition for Review is a jurisdictional assertion to which no response is required.
2. The Government Defendants lack knowledge or information sufficient to form a belief as to the allegations contained in paragraph 2, accordingly they are denied.
3. The Government Defendants admit that this Court issued an Order on April 2, 2002, but deny the remaining allegations contained in paragraph 3 as the Order speaks for itself.
4. The Government Defendants admit that on May 22, 2002, this Court referred two issues to the Board under the doctrine of primary jurisdiction and that a copy of the Court's order is attached at Exhibit A. The Government Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations contained in

paragraph 4, accordingly they are denied.

5. The Government Defendants admit that two issues were referred to the Board, but deny the remaining allegations of paragraph 5 as the Court's Order speaks for itself.
6. The Government Defendants admit the allegations of paragraph 6.
7. The Government Defendants admit that paragraph 7 contains an accurate quotation of one of the findings contained in the Board's Order.
8. The Government Defendants repeat and re-allege their answers to paragraphs one through seven of this Answer.
9. The allegations contained in Paragraph 9 are not statements of fact but are conclusions of law to which no answer is required.
10. The allegations contained in Paragraph 10 are not statements of fact but are conclusions of law to which no answer is required.
11. The Government Defendants repeat and re-allege their answers to paragraphs one through ten of this Answer.
12. The Government Defendants deny the allegations of paragraph 12.

The final paragraphs beginning with the word "WHEREFORE" set forth demands for judgment for which no responsive pleading is required. To the extent a response may be required, the allegations set forth in these paragraphs are denied.

All allegations not specifically admitted herein are specifically denied.

#### **First Defense**

The Petition for Review fails to state a cause of action upon which relief can be granted.

#### **Second Defense**

The Board's actions were not arbitrary and capricious and were within its discretion.

WHEREFORE, having fully answered petitioner's Petition for Review, respondents respectfully moves this Court to dismiss petitioner's Petition for Review , for its costs incurred herein, and for such further relief as is just and proper.

Respectfully submitted,  
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By: /s/ Jeffrey M. Cohen

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### **CERTIFICATE OF SERVICE**

I certify that on March 11, 2005, I caused a copy of the foregoing Answer to be served on plaintiff by first class mail, postage pre-paid to:

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